

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

ROBERTS, William J.

Entitled: "BIOAVAILABLE PRODRUGS OF
ANDROGENIC STEROIDS AND RELATED
METHOD"

Serial No. Not Yet Assigned

Filed: January 11, 2002

BOX APPLICATION
Assistant Commissioner
for Patents
U.S. Patent and Trademark Office
Washington, D.C. 20231



DECLARATION OF TIM ALLYN PATTERSON
IN SUPPORT OF PETITION TO MAKE SPECIAL UNDER
37 C.F.R. § 1.102 AND MPEP 708.02

Dear Sir:

I, Tim Allyn Patterson, do hereby declare and say as follows:

1. I am currently the CEO of Biotest Laboratories, LLC, the assignee for this application. I have held the position of CEO for the past 4 years.
2. On information and belief, there is currently an infringing product being produced in China specifically for importation into United States for resale that gives rise to this infringement and this Petition to Make Special.

3. On information and belief, the infringing product is being made and imported into the United States by Taizhou Xingye Chemical Factory as 4-androstenediol ethyl carbonate. A copy of a Certificate of Analysis I obtained identifying the Taizhou Xingye Chemical Factory and listing the chemical analysis of the 4-androstenediol Ethyl Carbonate is attached hereto as Exhibit 1.

4. I am continuing to search for the company or companies in the United States that are actually importing this product into the United States, or causing it to be imported into the United States, or purchasing the product for sale in the United States.

5. I have made a comparison of the product identified in Exhibit 1, which upon information and belief is being made by Taizhou Xingye Chemical Factory and imported into the United States, with the claims of the patent application. Based upon this analysis and in my opinion, at least some of the claims of the application are unquestionably infringed by that product. These infringed claims include at least composition of matter claims 1-6. I also believe the importation of the product into the United States for sale here constitutes contributory infringement of at least method claims 21-26, and inducement to infringe these claims.

I hereby declare that all statements made herein of my knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of

Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the present application or any patent issued thereon.

Signed this 10th day of January, 2002



Tim Allyn Patterson

Attachment

PATENT
Atty. Docket No. 1400-004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

ROBERTS, William J.

Entitled: "BIOAVAILABLE PRODRUGS OF
ANDROGENIC STEROIDS AND RELATED
METHOD"

Serial No. Not Yet Assigned

Filed: January 16, 2002

BOX APPLICATION
Assistant Commissioner
for Patents
U.S. Patent and Trademark Office
Washington, D.C. 20231

DECLARATION OF STEPHEN T. SULLIVAN
IN SUPPORT OF PETITION TO MAKE SPECIAL UNDER
37 C.F.R. § 1.102 AND MPEP 708.02

Dear Sir:

I, Stephen T. Sullivan, do hereby declare and say as follows:

1. I am a patent attorney at the Sullivan Law Group, 5060 North 40th Street, Suite 120, Phoenix, Arizona 85018. I also caused the captioned patent application to be filed on behalf of the inventor and the assignee. I am currently



registered to practice before the U.S. Patent & Trademark Office, and my registration number is 32,444.

2. A search of the prior art has been made at the U.S. Patent and Trademark Office relating to the subject matter of this application. The search included the following: Class 362, subclasses 228, 229, 241, 243, 247, 296, 297, 349, 487, 507, 517, 518, and 543; Class 313, subclasses 111, 113, 114, and 115; and Class 315, subclasses 77 and 82. It is further my understanding that the inventor has substantial familiarity with the art involved. I have provided one copy of each of the references found in the search, including those references deemed most closely related to the subject matter of the claims. They are attached to and identified in the concurrently filed Information Disclosure Statement.

3. I am in possession of evidence which in my opinion demonstrates at least a prima facie showing that there is currently an infringing product being produced in China specifically for importation and sale in United States that gives rise to this infringement of the captioned patent application. That apparent infringement forms the basis for this Petition to Make Special.

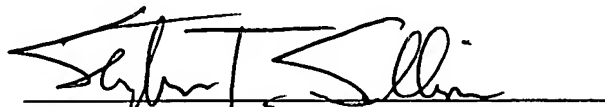
4. The evidence includes a document entitled "Taizhou Xingye Chemical Factory, Certificate of Analysis," a true and correct copy as I received it of which is attached hereto as Exhibit 1. That document indicates on its face that the product in question is or comprises 4-androstenediol ethyl carbonate, both a diester and a monoester.

5. I have made a comparison of the product identified in Exhibit 1 with the claims of the patent application. Based upon this analysis and in my opinion, at least some of the claims of the application are unquestionably infringed by that product. These infringed claims include at least composition of matter claims 1-6. I also believe the importation of the product into the United States for sale in this country constitutes contributory infringement of at least method claims 21-26, and inducement to infringe these claims.

6. I have reviewed the results of the search identified above, and I have not found any disclosure or teaching of the compounds as recited in claims 1-6 or the methods disclosed in claims 21-26.

I hereby declare that all statements made herein of my knowledge are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the present application or any patent issued thereon.

Signed this 16th day of January, 2002


Stephen T. Sullivan
Reg. No. 32,444